IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 863 OF 2003

Shri Uttam Dashrath Kamble ...Petitioner.

V/s

Sou Anusaya Uttam Kamble & Ors. ...Respondents.

Mr. Dilip Bodake for the petitioner.

Mr. M.D. Chavan for respondent Nos. 1 to 3

Mr. A.S. Shitole, APP for respondent No.4 - State.

CORAM: V.M.KANADE,J.
DATE: 3rd March, 2005

P.C.

1. Petitioner is challenging the order passed by the IInd Additional Sessions Judge, Satara in Criminal Revision Application No.131 of 2000. By the said Order, the Additional Sessions Judge was pleased to direct the petitioner to pay Rs 500/- per month to the respondent Nos. 1 and 2 each as maintenance.

2. Petitioner is the husband of respondent No.1 and the father of respondent Nos. 2 and 3. It is submitted by the learned Counsel appearing on behalf of the petitioner that the petitioner was willing to take back his wife and children and maintain them. It is further submitted that the petitioner is 63 years old and is no longer working in the bank and he had retired on attaining the age of superannuation. He

submitted that, therefore, he did not have means to maintain his wife and children. He further submitted that his wife and two daughters were residing in his house at his native place and were cultivating his land and, therefore, they had adequate means to maintain themselves. He submitted that that the Additional Sessions Judge has not taken into consideration these facts and, therefore, the order was liable to be set aside.

3. The learned Counsel for the respondent Nos. 1 to 3, on the other hand, submitted that the petitioner had married again and was residing with his second wife at Kalyan and, therefore, there was no question of respondents staying with the petitioner. He further submitted that the petitioner had adequate resources and he was the owner of two auto-rickshaws and had also income from other sources. He further submitted that the land at the native place of the petitioner is a fallow land which was not cultivated for number of years and it was not possible for respondent No.1 and her two daughters to cultivate the land. He has further submitted that the petitioner had not paid any arrears of maintenance till today.

4. I have perused the order passed by the Additional Sessions Judge. There is sufficient ground made out by the wife which clearly shows that the petitioner - husband had refused to maintain her. Respondents are justified in not residing with the petitioner on account of his second illegal marriage. There is no reason to interfere with the order passed by the Sessions Court. Criminal Writ Petition is, therefore, dismissed.

V.M. KANADE, J.